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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,727	09/15/2003	Brian S. Donlon	HRT0144CON	1513

27777 7590 02/21/2006
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EXAMINER

ISABELLA, DAVID J

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/662,727	Applicant(s) DONLON ET AL.	
	Examiner DAVID J. ISABELLA	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/04; 9/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election without traverse of claims 21 and 22 in the reply filed on 11/21/2005 is acknowledged.

Status of the Claims

Claims 1-20 have been cancelled and Claims 21 and 22 are pending for immediate action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Castillenti (5147316) or Allgood (5122122).

Each of Castillenti and Allgood disclose a surgical access comprising: a body having a distal end a proximal end and a channel therebetween defining an axial direction, the distal end being configured for positioning through a passage in a body wall into a body cavity and the channel being configured for positioning surgical devices into the body cavity; and a retainer coupled to the body near the distal end, the retainer being movable between a collapsed configuration suitable for positioning

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through the body walls and an expanded configuration adapted to engage an interior surface of the body wall, the retainer having a dimension generally perpendicular to the axial direction which is less than the width of the passage in the collapsed configuration and substantially greater than the width of the passage in the expanded configuration.

Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Allgood (5122122).

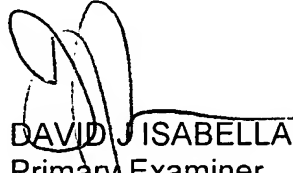
Allgood discloses a surgical access comprising: a body having a distal end a proximal end and a channel therebetween defining an axial direction, the distal end being configured for positioning through a passage in a body wall into a body cavity and the channel being configured for positioning surgical devices into the body cavity; and a retainer coupled to the body near the distal end, the retainer being movable between a collapsed configuration suitable for positioning through the body walls and an expanded configuration adapted to engage an interior surface of the body wall, the retainer having a dimension generally perpendicular to the axial direction which is less than the width of the passage in the collapsed configuration and substantially greater than the width of the passage in the expanded configuration. The device of Allgood includes a removable actuator having a portion that is positionable in the channel with a coupling to move the retainer from a collapsed to an expanded configuration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. ISABELLA whose telephone number is 571-272-4749. The examiner can normally be reached on MONDAY-FRIDAY.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CORRINE MCDERMOTT can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAVID J. ISABELLA
Primary Examiner
Art Unit 3738

2/3/2006
DJI